

standards in the process—and has ignored the supporting experimental evidence of record that confirms the existence of lower-energy hydrogen and, by extension, its utility.

The Examiner evaluates the utility of Applicant's claimed invention under Section 101 by concluding at the outset that it's not credible, without evaluating the evidentiary basis for Applicant's assertion of utility. In doing so, the Examiner has misapplied the standards under Section 101 as outlined in MPEP § 2107, p. 2100-31:

[The Examiner] should not begin an evaluation of utility by assuming that an asserted utility is likely to be false, based on the technical field of the invention or for other general reasons. . . . A conclusion that an asserted utility is incredible can be reached only after the Office has evaluated both the assertion of the applicant regarding utility and any evidentiary basis of that assertion. The [Examiner] should be particularly careful not to start with a presumption that an asserted utility is, *per se*, "incredible" and then proceed to base a rejection under 35 U.S.C. 101 on that presumption. (Emphasis added.)

In applying the Section 101 rejection, the Examiner ignores this mandate and improperly presumes the utility of Applicant's invention to be *per se* incredible, while completely ignoring the extensive theoretical explanation and experimental evidence in support of that utility.

The Examiner has provided no explanation of how the extensive theory disclosed in the present specification is in error or why the supporting experimental evidence does not demonstrate the utility of what Applicant is claiming. Instead, the Examiner violates the standards under Section 101 and merely concludes that "[t]he invention is based upon assumptions that are contrary to basic, well established, laws of quantum physics and, therefore, is inoperative and lacks utility."

Aside from violating established standards for evaluating utility, the Examiner does not even bother to explain what "laws" Applicant's invention supposedly contradicts. Indeed, Applicant's invention, as described in the specification, is based upon first principles or laws of physics, including Maxwell's Equations.

This failure to follow the Patent Office's own procedures in MPEP § 2107.01 alone mandates that the Section 101 rejection be withdrawn.